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February 16, 2023

By ECF

Honorable Lorna G. Schofield
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Ali Moore v. City of New York, et al.
22-CV-10957 (LGS)

Your Honor:

I am an Assistant Corporation Counsel in the Office of the Honorable Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, and the attorney for defendant the City of New York, David Castro, Nilsa Nivar (formerly Nilsa Patricio), Sanjay Bajnauth, Antonio Castelluccio, David Maldonado, and Kevin Rosas (collectively “City defendants”) in the above-referenced action. City defendants write to inform the Court that they do not intend to submit a reply memorandum in further support of their November 8, 2023 motion to dismiss, and instead, for the reasons stated below, rely on their moving papers. City Defendants’ November 8, 2023 motion to dismiss is now fully briefed.

On November 8, 2023, NYCH+H defendants and City defendants filed their respective fully dispositive motions to dismiss for failure to state a claim. *See* ECF Nos. 100-102. On December 6, 2023, plaintiff filed an opposition to defendants’ motions to dismiss, and his opposition was entered on ECF the following day. *See* ECF No. 114. On December 20, 2023, NYCH+H defendants filed a reply memorandum in further support of their motion to dismiss, ECF No. 122, and City defendants filed a letter in lieu of a reply stating that they intended to rely on their moving papers, ECF No. 123. On January 9, 2024, without seeking leave of Court, plaintiff filed another opposition, which appeared to address the arguments in City defendants’ motion that plaintiff ignored in his first opposition. *See generally* ECF No. 129.

Plaintiff’s second opposition to City defendants’ motion (hereinafter “Pl. 2d Opp.”) contains 30 pages of diatribe that fails to provide any legal authority that would refute City defendants’ argument that group pleading is improper. Plaintiff also does not and cannot refute the existence of probable cause; he merely calls the existence of probable cause a “fallacy,” “myth,” “farce,” without citing any legal authority that would suggest the statements conveyed to police in this case could not amount to probable cause. *See* Pl. 2d Opp. at 18-22. Indeed, he cannot dispute that officers had information from 911 callers that established probable cause to

detain him under MHL § 9.41. Plaintiff only argues that the 911 callers had “biased perspectives” and “motivations to depict the plaintiff as a threat” when making those statements, *see id.* at 21-22, but plaintiff does not argue, nor does the 4AC allege, any facts that plausibly infer, that the defendant officers knew of any reason to doubt the veracity of the 911 callers. *See Curley v. Vill. of Suffern*, 268 F.3d 65, 69-70 (2d Cir. 2001).

To avoid duplicative briefing and rather than echo all arguments that are already set forth in previously-filed briefing that refute plaintiff’s arguments in his opposition, City defendants continue to rely on their moving papers. Consequently, plaintiff fails to state a claim for the reasons set forth in defendants’ November 8, 2023 motion, and the Court should dismiss all claims against City defendants with prejudice.

City defendants thank the Court for its time and consideration of this matter.

Respectfully submitted,

Evan J. Gottstein /s/
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cc: Via First Class Mail
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